

§§ 1209.82—1209.99 [Reserved]

**Subpart F—Suspension or Removal  
of an Entity-Affiliated Party  
Charged With Felony**

**§ 1209.100 Scope.**

Subpart F of this part applies to informal hearings afforded to any entity-affiliated party who has been suspended, removed, or prohibited from further participation in the business affairs of a regulated entity by a notice or order issued by the Director under section 1377(h) of the Safety and Soundness Act (12 U.S.C. 4636a(h)).

**§ 1209.101 Suspension, removal, or prohibition.**

*(a) Notice of suspension or prohibition.*

(1) As provided by section 1377(h)(1) of the Safety and Soundness Act (12 U.S.C. 4636a(h)(1)), if an entity-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in a crime that involves dishonesty or breach of trust that is punishable by imprisonment for more than one year under State or Federal law, the Director may, if continued service or participation by such party may pose a threat to the regulated entity or impair public confidence in the regulated entity, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of any regulated entity.

(2) In accordance with section 1377(h)(1) of the Safety and Soundness Act (12 U.S.C. 4636a(h)(1)), the notice of suspension or prohibition is effective upon service. A copy of such notice will be served on the relevant regulated entity. The notice will state the basis for the suspension and the right of the party to request an informal hearing as provided in § 1209.102. The suspension or prohibition is to remain in effect until the information, indictment, or complaint is finally disposed of, or until terminated by the Director, or otherwise as provided in paragraph (c) of this section.

*(b) Order of removal or prohibition.* As provided by section 1377(h)(2) of the Safety and Soundness Act (12 U.S.C.

4636a(h)(2)), at such time as a judgment of conviction is entered (or pretrial diversion or other plea bargain is agreed to) in connection with a crime as referred to above in paragraph (a) (the “conviction”), and the conviction is no longer subject to appellate review, the Director may, if continued service or participation by such party may pose a threat to the regulated entity or impair public confidence in the regulated entity, issue an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the regulated entity without the prior written consent of the Director. A copy of such order will be served on the relevant regulated entity, at which time the entity-affiliated party shall immediately cease to be a director or officer of the regulated entity. The notice will state the basis for the removal or prohibition and the right of the party to request a hearing as provided in § 1209.102.

*(c) Effective period.* Unless terminated by the Director, a notice of suspension or order of removal issued under section 1377(h)(1) or (2) of the Safety and Soundness Act (12 U.S.C. 4636a(h)(1), (2)) shall remain effective and outstanding until the completion of any informal hearing or appeal provided under section 1377(h)(4) of the Safety and Soundness Act (12 U.S.C. 4636a(h)(4)). The pendency of an informal hearing, if any, does not stay any notice of suspension or prohibition or order of removal or prohibition under subpart F of this part.

*(d) Effect of acquittal.* As provided by section 1377(h)(2)(B)(ii) of the Safety and Soundness Act (12 U.S.C. 4636a(h)(2)(B)(ii)), a finding of not guilty or other disposition of the charge does not preclude the Director from instituting removal, suspension, or prohibition proceedings under section 1377(a) or (b) of the Safety and Soundness Act (12 U.S.C. 4636a(a), (b)).

*(e) Preservation of authority.* Action by the Director under section 1377(h) of the Safety and Soundness Act (12 U.S.C. 4636a(h)), shall not be deemed as a predicate or a bar to any other regulatory, supervisory, or enforcement action under the Safety and Soundness Act.